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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

No. 04-12333-MEL

CASAS, BENJAMIN & WHITE, LLC,

Plaintiff,

v.

THE POINTE GROUP, INC., a Massachusetts corporation

d/b/a The Pointe Group Healthcare and Senior Living;

GERALD S. FREID; BARRY FREID; and KEY CORPORATE

CAPITAL, INC.,

Defendants.

DEPOSITION OF GEORGIA T. FREID

Tuesday, May 3, 2005

Conn Kavanaugh Rosenthal Peisch & Ford, LLP

Ten Post Office Square

Boston, Massachusetts

10:25 a.m.

Reporter: Linda M. Grieco

320 Congress Street, Boston, MA 02210

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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 CONN KAVANAUGH ROSENTHAL PEISCH & FORD</p> <p>4 (By Erin K. Higgins, Esquire)</p> <p>5 Ten Post Office Square</p> <p>6 Boston, Massachusetts 02109</p> <p>7 on behalf of the Plaintiff</p> <p>8 (617) 482-8200</p> <p>9</p> <p>10 GORDON HALEY LLP</p> <p>11 (By Stephen F. Gordon, Esquire)</p> <p>12 101 Federal Street</p> <p>13 Boston, Massachusetts 02110</p> <p>14 on behalf of The Pointe Group,</p> <p>15 Gerald S. Freid, Barry Freid and</p> <p>16 the Witness</p> <p>17</p> <p>18 NIXON PEABODY, LLP</p> <p>19 (By Doran Rymes, Esquire)</p> <p>20 889 Elm Street</p> <p>21 Manchester, New Hampshire 03101</p> <p>22 on behalf of Key Corporate Capital, Inc.</p> <p>23 (603) 628-4000</p> <p>24 Also present: Gerald Freid</p>	<p style="text-align: right;">Page 4</p> <p>1 P R O C E E D I N G S</p> <p>2 S T I P U L A T I O N</p> <p>3 It is stipulated by and between counsel</p> <p>4 for the respective parties that the deposition is to</p> <p>5 be read and signed by the deponent under the pains</p> <p>6 and penalties of perjury within 30 days of receipt</p> <p>7 of the transcript; and that the sealing and filing</p> <p>8 thereof are waived; and that all objections, except</p> <p>9 as to form, and motions to strike are reserved to</p> <p>10 the time of trial.</p> <p>11 * * * * *</p> <p>12 GEORGIA T. FREID,</p> <p>13 a witness called by counsel for the Plaintiff,</p> <p>14 having been satisfactorily identified by the</p> <p>15 production of her driver's license, and duly sworn</p> <p>16 by the Notary Public, was examined and testified as</p> <p>17 follows:</p> <p>18 D I R E C T E X A M I N A T I O N</p> <p>19 B Y M S. H I G G I N S</p> <p>20 Q. Good morning, Mrs. Freid. My name is Erin</p> <p>21 Higgins, and I represent the plaintiff in this case,</p> <p>22 Casas, Benjamin & White. Have you ever had your</p> <p>23 deposition taken before?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 3</p> <p>1 I N D E X</p> <p>2 Deposition of: Direct Cross</p> <p>3 GEORGIA T. FREID</p> <p>4 By Ms. Higgins 4</p> <p>5 By Ms. Rymes 101</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10 E X H I B I T S</p> <p>11 No. Page</p> <p>12 39 Subpoena 10</p> <p>13 40 E-mails from Attorney Gordon to</p> <p>14 Matt Caine 54</p> <p>15 41 Second Amendment to Pledge Agreement 57</p> <p>16 42 Second Amendment to Securities Pledge</p> <p>17 Agreement 12/96 57</p> <p>18 43 Purchase and Sale Agreement 8/9/04 81</p> <p>19 44 "Side Letter" 85</p> <p>20 45 Quitclaim Deed 85</p> <p>21 46 Closing Certificate 85</p> <p>22 47 Amendment to Purchase and Sale</p> <p>23 Agreement 85</p> <p>24</p>	<p style="text-align: right;">Page 5</p> <p>1 Q. How many times?</p> <p>2 A. Once.</p> <p>3 Q. Do you remember approximately how many years</p> <p>4 ago that was?</p> <p>5 A. Maybe two.</p> <p>6 Q. Was that in connection with a lawsuit?</p> <p>7 A. Yes.</p> <p>8 Q. Do you remember what the lawsuit was about?</p> <p>9 A. Well, I know who it was against.</p> <p>10 Q. Who was it against?</p> <p>11 A. HDC, I believe, was suing me.</p> <p>12 Q. What kind of a company is HDC?</p> <p>13 A. It's a company that -- what kind of company</p> <p>14 is HDC? HDC is a company that I guess downstream</p> <p>15 somewhere must have loaned them money, and then they</p> <p>16 would pay me back interest each month, something</p> <p>17 like that.</p> <p>18 Q. Where was the suit pending? Was it here in</p> <p>19 Massachusetts or in Florida?</p> <p>20 A. Yes, here.</p> <p>21 Q. Do you know what courthouse it was in,</p> <p>22 Middlesex or Suffolk? Was it in Cambridge or</p> <p>23 Boston?</p> <p>24 A. Boston, I think. I don't know. I never</p>

2 (Pages 2 to 5)

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1 before, that anyone on the seller's side would have
 2 to bring money to the transaction?
 3 MR. GORDON: She's already answered that
 4 question.
 5 Q. Okay, I just wanted to make sure I covered
 6 the bases. Is that your testimony?
 7 A. I don't remember.
 8 MR. GORDON: She's already answered
 9 that.
 10 (Off the record.)
 11 Q. On the day of the closing, do you remember
 12 there being any discussion amongst any of the people
 13 who were there on the seller's side of the
 14 transaction as to whether or not there were
 15 sufficient funds to pay all the closing costs on the
 16 seller's side of the statement?
 17 A. I have no idea.
 18 Q. Do you remember there being any discussion
 19 that you either participated in or overheard as to
 20 the amount of any escrows that were going to be
 21 established?
 22 A. I don't know.
 23 Q. Mrs. Freid, I'm handing you what was marked
 24 as Exhibit 37 at the deposition of Gerald Freid.

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1 (Document exhibited to witness.)
 2 Q. Can you tell me whether you have seen before
 3 today either that e-mail or the attached invoice?
 4 A. I didn't get this e-mail.
 5 Q. My question is whether before today you've
 6 ever seen that e-mail or the attached invoice?
 7 A. No.
 8 Q. Do you remember any discussion on the day of
 9 the closing as to any invoice rendered by the broker
 10 in connection with the sale of the facilities to
 11 Epoch?
 12 A. No.
 13 Q. Handing you what was marked as Exhibit 38 at
 14 the deposition of Gerald Freid.
 15 (Document exhibited to witness.)
 16 Q. I recognize that the e-mail that's the cover
 17 sheet to that exhibit was not something that was
 18 directed to you. My question has to do with the
 19 attachment to that e-mail. This is purportedly a
 20 copy of the closing statement from the closing. My
 21 question is whether on the day of the closing, you
 22 reviewed a copy of the settlement statement?
 23 A. No.
 24 Q. I'm just going to show you one particular

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1 page of this. Showing you schedule seven to the
 2 closing statement, which is titled closing costs and
 3 disbursement. You see that there are listed costs
 4 and disbursement for both the buyer and the seller
 5 there?
 6 A. Yes.
 7 Q. Do you see that?
 8 A. Uh-hum.
 9 Q. If you go down about midway down the page,
 10 you see that there's an item --
 11 A. Broker's commission.
 12 Q. Yes, the broker's commission.
 13 A. Yes.
 14 Q. Did you see that entry on the day of the
 15 closing?
 16 A. No.
 17 Q. Do you remember there being any discussion,
 18 you see the particular language that says, it says
 19 broker's commission and then you see there's some
 20 language in parenthesis next to it?
 21 A. Oh, the broker's -- okay, yes, I see that.
 22 Q. Could you read that into the record, what's
 23 in the parenthesis?
 24 A. POC by seller.

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1 Q. Do you have any understanding what POC
 2 means?
 3 A. None whatsoever.
 4 Q. Do you remember there being any discussion
 5 on the day of the closing as to what that means,
 6 POC?
 7 A. No.
 8 Q. Did you have -- do you remember any
 9 discussion on the day of the closing as to whether
 10 or not the broker was going to be paid outside of
 11 the closing?
 12 A. No.
 13 Q. You don't have any information as to who put
 14 that on the settlement statement?
 15 A. No.
 16 Q. Okay, take that back.
 17 MR. GORDON: Mark that as the next
 18 exhibit.
 19 (Exhibit 43 marked for identification.)
 20 (Document exhibited to witness.)
 21 Q. Mrs. Freid, I'm handing you a document
 22 that's been marked as an exhibit. It's entitled
 23 purchase and sale agreement. There's a date on the
 24 front, August 9, 2004. Do you see that?

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1 A. Yes.
 2 Q. Do you remember reviewing the purchase and
 3 sale agreement for this transaction that's described
 4 here?
 5 A. I've never seen this.
 6 Q. Could you turn to page 39 of the document,
 7 please?
 8 A. Okay.
 9 Q. You see section 30, which has a sub-heading
 10 of broker?
 11 A. Yes.
 12 Q. And you see that section refers to my
 13 client, Casas, Benjamin & White, LLC?
 14 A. Yes.
 15 Q. And you see the last sentence where it says,
 16 "Sellers shall be responsible for paying broker and
 17 shall hold buyer harmless from any claim by broker."
 18 Do you see that?
 19 A. Yes.
 20 Q. Is it your testimony that you have never
 21 previously reviewed that paragraph of the agreement?
 22 A. Never seen it.
 23 Q. If you could just look at page -- I guess we
 24 sort of lose the page numbers, but it would have

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1 been page 43.
 2 A. Yes.
 3 Q. Is that your signature that appears at
 4 several places?
 5 A. There are no signatures on 43.
 6 MR. GORDON: There may be several 43's.
 7 A. Oh, there might be a lot of 43's, okay.
 8 MR. GORDON: No, there's just one.
 9 A. No, no signature on 43, 41.
 10 MR. GORDON: This is unsigned, and I
 11 notice it has your initials on the first page. So
 12 maybe we've marked your personal copy.
 13 MS. HIGGINS: They should be copies of
 14 one another, though. It doesn't really matter.
 15 Q. I'll take that back.
 16 MS. HIGGINS: Do you have any objection
 17 to us putting the exhibit sticker on the signed
 18 version?
 19 MR. GORDON: In fact, you could switch
 20 page one. Oh, if you can get it off, that's fine.
 21 Q. If you could look again at the signature
 22 pages on that document.
 23 (Document exhibited to witness.)
 24 A. That's better. 39? That's where you want

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1 to start, I think. Yeah, I guess so.
 2 MS. HIGGINS: Now I'm confused.
 3 A. Do you want me to list the number of the
 4 page?
 5 MR. GORDON: There's no page number on
 6 the signature page.
 7 MS. HIGGINS: Yes, I don't know why.
 8 These should be duplicates of one another, and I'm
 9 not sure why they're not.
 10 A. This is number two.
 11 MR. GORDON: Now, there's a two here.
 12 A. But I saw 39 a minute ago somewhere.
 13 MR. GORDON: It does have the date of
 14 August 4, 2004 at the top.
 15 MS. HIGGINS: These are not -- these are
 16 not the same document. Mine, actually now that I'm
 17 looking at it, the copy that I have in any hand says
 18 "draft" on it. So this is not a final version, and
 19 I think what you have is, simply because it has
 20 signatures.
 21 MR. GORDON: So on the one that we've
 22 now marked as Exhibit 43 --
 23 MS. HIGGINS: Correct.
 24 MR. GORDON: You're asking about the

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1 witness's signatures.
 2 Q. Yes, forget my copy. If you could look at
 3 the document that we've now marked as Exhibit 43,
 4 which is what it says on the front, and just confirm
 5 for me that your signature appears on the signature
 6 pages to that document.
 7 A. Yes, yes.
 8 Q. Just because I don't want the record to be
 9 confused, it remains your testimony that you did not
 10 read that document, the one that's marked as
 11 Exhibit 43, before you signed it, correct
 12 A. I did not read it.
 13 MS. HIGGINS: I'm going to have you mark
 14 these as exhibits.
 15 (Exhibits 44 through 47 marked for
 16 identification.)
 17 Q. Mrs. Freid, I'm handing you what's been
 18 marked as Exhibits 44, 45, 46 and 47.
 19 (Documents exhibited to witness.)
 20 Q. Again, I don't have a lot of questions about
 21 these. I think you previously testified that you
 22 did remember the date of the closing being September
 23 30th of 2004?
 24 A. Yes, it's my daughter's birthday.

22 (Pages 82 to 85)